

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

MAY 06 2002

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

MARIA CHAVEZ, RANULFO  
GUTIERREZ, PAZ ARROYO,  
ANTONIO MARTINEZ, SILVERIO  
DIAZ, individually and as  
class representatives,

Plaintiffs,

v.

IBP, inc., LASSO ACQUISITION  
CORPORATION, and TYSON FOODS,  
INC., all Delaware  
Corporations,

Defendants.

NO. CT-01-5093-EFS

**ORDER GRANTING DEFENDANT LASSO  
ACQUISITION CORPORATION'S  
MOTION FOR SUMMARY JUDGMENT**

BEFORE THE COURT, without oral argument, is Defendant Lasso Acquisition Corporation's Motion for Summary Judgment Dismissing Plaintiff's Claims with Prejudice, (Ct. Rec. 56-1). The Court has reviewed the motion and record and is fully informed. The Court hereby **grants** Defendant's Motion for Summary Judgment.

In their Complaint, the Plaintiffs named three defendants: IBP, Inc. (Old IBP), Lasso Acquisition Corporation ("Lasso") and Tyson Foods, Inc. ("Tyson"). (Ct. Rec. 1.) Lasso was incorporated as a wholly owned subsidiary of Tyson. (Ct. Rec. 60 Hudson Decl. ¶ 2.)

1 Its sole purpose was to complete the merger agreement between Old IBP  
2 and Tyson. (*Id.* at ¶ 3.) Lasso then purchased shares of OLD IBP's  
3 stock, which together with those already owned by Tyson, totaled just  
4 more than 50% of Old IBP's outstanding stock. (*Id.* at ¶ 4.) Using  
5 the control it had acquired, Tyson acquired the remaining shares  
6 though a share exchange for Tyson shares. (*Id.*) Finally, on  
7 September 28, 2001, Lasso and Old IBP merged into a single  
8 corporation, which was renamed IBP, inc., ("New IBP"). (*Id.* at ¶ 5.)  
9 Recognizing this change, the Plaintiffs have filed a supplemental  
10 complaint, including an allegation relating to the now completed  
11 merger. (Ct. Rec. 100.) As a result of the merger, New IBP succeeded  
12 to all the rights and liabilities of Old IBP. (Ct. Rec 60 Hudson  
13 Decl. ¶ 6.)

14 Following the merger, there is no such corporation as Lasso,  
15 separate and distinct from IBP. There is only New IBP. Yet,  
16 Plaintiffs have sued IBP, and Lasso (recognizing that its name had  
17 changed to New IBP), (Ct. Rec. 100 at 3). After the merger, these are  
18 not two distinct parties, but one and the same. Therefore, the Court  
19 grants Lasso's motion for summary judgment. However, the Court wishes  
20 to make clear that this grant of summary judgment does not release New  
21 IBP from any liability resulting from this case. All the Court  
22 intends is the recognition that after the merger, there are only two  
23 defendants possibly involved, New IBP and Tyson. Accordingly,

24 **IT IS HEREBY ORDERED:**  
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26

1 1. Defendant Lasso Acquisition Corporation's Motion for Summary  
2 Judgment Dismissing Plaintiff's Claims with Prejudice, (Ct. Rec. 56-  
3 1), is **GRANTED, as set forth herein.**

4 2. The Court continued Defendant Tyson Foods, Inc.'s Motion for  
5 Summary Judgment Dismissing Plaintiff's Claims with Prejudice, (Ct.  
6 Rec. 56-2), by a separate order, (Ct. Rec. 119), and therefore, this  
7 Order does not terminate that motion.

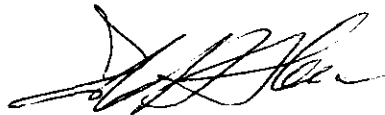
8 3. Defendants' Motion to Exceed Page Limitation, (Ct. Rec. 94),  
9 is **GRANTED.**

10 **IT IS SO ORDERED.** The District Court Executive is directed to

11 (A) Enter this Order; and

12 (B) Provide copies to all counsel.

13 **DATED** this 6<sup>th</sup> day of May, 2002.

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15 \_\_\_\_\_  
16 EDWARD F. SHEA  
United States District Judge

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